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CIVIL AND POLITICAL RIGHTS, INCLUDING QUESTIONS OF DISAPPEARANCES AND SUMMARY EXECUTIONS

Extrajudicial, summary or arbitrary executions

Report of the special rapporteur, Ms. Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 1999/35

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Executive summary

This report, which is submitted pursuant to Commission on Human Rights resolution 1999/35, covers information received and communications sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions in the period from 1 November 1998 to 5 December 1999. The report, which is divided into six chapters, focuses on different aspects of the problem of extrajudicial, summary or arbitrary executions and contains the Special Rapporteur's observations on issues falling within the purview of her mandate.

Chapter I gives an overview of the mandate entrusted to the Special Rapporteur. In chapter II, the Special Rapporteur presents the main activities she has undertaken within the framework of her mandate during the period under review. Chapter III gives an overview of the various situations involving violations of the right to life relevant to the Special Rapporteur's mandate. In chapter IV, the Special Rapporteur presents a number of issues which require her particular attention. Chapter V gives an analysis of the issues of special concern to the Special Rapporteur. Finally, in chapter VI the Special Rapporteur presents her conclusions and a number of recommendations she feels could be helpful in combating the problem of extrajudicial, summary or arbitrary executions. In her report, the Special Rapporteur reviews the issues discussed in her last report to the Commission on Human Rights, and also seeks to elaborate on the new headings introduced last year, i.e. the practice of so-called "honour killings", children in armed conflict, and violations of the right to life of members of sexual minorities.

The Special Rapporteur submits three addenda to the present report. Addendum 1 describes 69 country situations, which include in summary form the information transmitted and received by the Special Rapporteur, including communications received from Governments, as well as the Special Rapporteur's observations where required and considered appropriate. Addendum 2 contains the Special Rapporteur's report on her visit to the former Yugoslav Republic of Macedonia and Albania from 25 to 28 May 1999, and addendum 3 the report on her visit to Mexico from 12 to 24 July 1999.

The Special Rapporteur takes action in the following situations falling under her mandate: (a) violations of the right to life in connection with the death penalty; (b) death threats; (c) deaths in custody; (d) deaths due to the use of force by law enforcement officials or persons acting in direct or indirect compliance with the State; (e) deaths due to attacks or killings by security forces of the State, or by paramilitary groups, death squads, or other private forces cooperating with or tolerated by the State; (f) violations of the right to life during armed conflict; (g) expulsion, refoulement, or return of persons to a country or a place where their lives are in danger; (h) genocide; (i) deaths due to omission on the part of the authorities; (j) breach of the obligation to investigate alleged violations of the right to life and to bring those responsible to justice; and (k) breach of the additional obligation to provide adequate compensation to victims of violations of the right to life and their families. The Special Rapporteur presents her observations regarding these issues in chapters IV and V of the report.

During the period under review, the Special Rapporteur transmitted urgent appeals concerning 213 individuals and a number of groups of persons to the Governments of 42 countries. Twenty-six of the appeals were sent jointly with other mechanisms of the

Commission on Human Rights. The Special Rapporteur further sent allegations regarding violations of the right to life of more than 900 individuals to the Governments of 41 countries. In the last year, the Special Rapporteur conducted fact-finding missions as follows: from 23 to 25 May 1999 she visited the former Yugoslav Republic of Macedonia and Albania in order to investigate allegations of extrajudicial killings in the context of the conflict in Kosovo; from 12 to 24 July 1999, the Special Rapporteur conducted a mission to Mexico, where she held meetings in Mexico City and in the States of Guerrero, Chiapas and Chihuahua; from 4 to 10 November 1999, the Special Rapporteur, together with the Special Rapporteurs on the question of torture and on violence against women, its causes and consequences, conducted a joint mission to East Timor. The mission was undertaken pursuant to Commission resolution S-4/1 and the findings of the Special Rapporteurs are reflected in their joint mission report submitted to the General Assembly (A/54/660).

Chapter V of the report focuses on the following subjects, which are of particular concern to the Special Rapporteur: (a) capital punishment; (b) deaths due to attacks by security forces, paramilitary groups or private forces cooperating or tolerated by the State; (c) traditional practices affecting the right to life - "honour killings"; (d) violations of the right to life of human rights defenders and journalists; and (e) impunity.

The Special Rapporteur concludes that the information brought to her attention in the course of the last year gives her no indication that extrajudicial, summary or arbitrary executions have decreased. She notes that certain specific groups such as human rights defenders, political activists and members of various minorities continue to be particularly exposed to extrajudicial, summary or arbitrary executions, but points out that there are more and more reports of large-scale, indiscriminate and arbitrary killings of women, children or elderly persons by Government-controlled security forces, paramilitary groups or non-State actors. Armed conflicts and situations of internal strife or unrest also continue to claim their toll of civilian victims. In her concluding observations the Special Rapporteur also emphasizes the urgent need to address the practice of so-called "honour killings", which may constitute violations of the right to life when condoned or ignored by the authorities.

In conclusion, the Special Rapporteur expresses her hope that the present report will serve to illustrate the scope and seriousness of the problem of extrajudicial, summary or arbitrary executions worldwide and inspire States to take joint and separate action to combat these atrocities, which continue to bring anguish and tragedy to innocent victims and their families. She emphasizes that declarations of commitment by Governments to the protection of human rights are only effective, and indeed meaningful, if they are translated into concrete decisions and policies at the national level. The Special Rapporteur finally notes with regret that most of her recommendations from last year remain valid, in the absence of concrete and credible action to implement them on the part of Governments. She has therefore felt obliged to reiterate many of these points in this year's report.

Introduction

1. This report is submitted pursuant to Commission on Human Rights resolution 1999/35 of 26 April 1999. It is the second annual report submitted to the Commission by Ms. Asma Jahangir, and the seventeenth submitted since the mandate on "summary and arbitrary executions" was established by Economic and Social Council resolution 1982/35 of 7 May 1982.

2. The present report covers information received and communications sent in the period from 1 November 1998 to 15 December 1999, and is divided into six chapters. Chapter I gives an overview of the mandate entrusted to the Special Rapporteur. In chapter II, the Special Rapporteur presents the main activities she has undertaken in the framework of her mandate during the period under review. Chapter III gives an overview of the various situations involving violations of the right to life relevant to the Special Rapporteur's mandate. In chapter IV, the Special Rapporteur presents a number of issues which require her particular attention. Chapter V gives an analysis of the issues of special concern to the Special Rapporteur. Finally, in chapter VI the Special Rapporteur presents her conclusions and a number of recommendations she feels could be helpful in combating the problem of extrajudicial, summary or arbitrary executions. The report reviews the issues discussed in her last report to the Commission, and also attempts to elaborate on the new headings introduced last year. The Special Rapporteur is grateful for the comments and feedback she has received on her first report to the Commission, some of which she has tried to incorporate or reflect in the present report.

3. The Special Rapporteur further presents three addenda to the present report. Addendum 1 describes 69 country situations, which include in summary form the information transmitted and received by the Special Rapporteur, including communications received from Governments, as well as the Special Rapporteur's observations where required and considered appropriate. Addendum 2 contains the Special Rapporteur's report on her visit to the former Yugoslav Republic of Macedonia and Albania from 25 to 28 May 1999, and addendum 3 the report on her visit to Mexico from 12 to 24 July 1999.

I. THE MANDATE

A. Terms of reference

4. In resolution 1999/35, the Commission on Human Rights requested the Special Rapporteur to continue to examine situations of extrajudicial, summary or arbitrary executions, to respond effectively to information which comes before her and to enhance further her dialogue with Governments, as well as to follow up on recommendations made in reports after visits to particular countries. The Commission also requested the Special Rapporteur to continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto.

5. In its resolution, the Commission also requested the Special Rapporteur to apply a gender perspective in her work and to pay special attention to violations of the right to life of children,

participants in demonstrations or other public manifestations, persons belonging to minorities, and individuals carrying out peaceful activities in defence of human rights and fundamental freedoms. The Commission further urged the Special Rapporteur to draw the attention of the United Nations High Commissioner for Human Rights to such situations of extrajudicial, summary or arbitrary executions that are of particularly serious concern to her or where early action might prevent further deterioration. The Commission welcomed the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures relating to human rights and encouraged the Special Rapporteur to continue efforts in that regard.

B. Violations of the right to life upon which the Special Rapporteur takes action

6. During the present reporting period, the Special Rapporteur acted in the following situations:

(a) Violations of the right to life in connection with the death penalty. The Special Rapporteur intervenes when capital punishment is imposed after an unfair trial or in the case of a breach of the right to appeal, or the right to seek pardon, or commutation of the sentence, and in cases where mandatory death sentences are imposed. The Special Rapporteur also undertakes action when capital punishment is imposed for crimes which cannot be considered "most serious crimes" as stipulated in article 6, paragraph 2, of the International Covenant on Civil and Political Rights. The Special Rapporteur may, moreover, intervene if the convicted person is a minor, mentally handicapped or ill, a pregnant woman, or a recent mother;

(b) Death threats and fear of imminent extrajudicial executions by State officials, paramilitary groups, private individuals, or groups cooperating with or tolerated by the Government, as well as by unidentified persons who may be linked to the categories mentioned above;

(c) Deaths in custody owing to torture, neglect, or the use of force, or life-threatening conditions of detention;

(d) Deaths due to the use of force by law enforcement officials or persons acting in direct or indirect compliance with the State, when the use of force is inconsistent with the criteria of absolute necessity and proportionality;

(e) Deaths due to the attacks or killings by security forces of the State, or by paramilitary groups, death squads, or other private forces cooperating with or tolerated by the State;

(f) Violations of the right to life during armed conflicts, especially of the civilian population and other non-combatants, contrary to international humanitarian law;

(g) Expulsion, refoulement, or return of persons to a country or a place where their lives are in danger, as well as the prevention of persons seeking asylum from leaving a country where their lives are in danger through the closure of national borders;

(h) Genocide;

(i) Deaths due to acts of omission on the part of the authorities, including mob killings. The Special Rapporteur may take action if the State fails to take positive measures of a preventive and protective nature necessary to ensure the right to life of any person under its jurisdiction;

(j) Breach of the obligation to investigate alleged violations of the right to life and to bring those responsible to justice;

(k) Breach of the additional obligation to provide adequate compensation to victims of violations of the right to life, and failure on the part of Governments to recognize compensation as an obligation.

C. Legal framework and methods of work

7. For an overview of the international legal standards by which the Special Rapporteur is guided in her work, she makes reference to the report of her predecessor to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/46, paras. 42-68). The Special Rapporteur has largely followed the methods of work developed and applied by the previous Special Rapporteur, Mr. Bacre Waly Ndiaye, which are described in his report to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/7, paras. 13-67), as well as his subsequent reports to the Commission (E/CN.4/1995/61, paras. 9-11 and E/CN.4/1996/4, paras. 11-12).

II. ACTIVITIES

A. General remarks

8. During the present reporting period, the Special Rapporteur held a number of consultations with the Office of the High Commissioner for Human Rights in Geneva, during which she had the opportunity to meet with the staff of the Office and to discuss issues of mutual interest with other special rapporteurs and representatives appointed by the Commission on Human Rights. The Special Rapporteur presented her report to the Commission on Human Rights on 9 April 1999 and from 31 May to 3 June 1999, she attended the annual meeting of special rapporteurs in Geneva. The Special Rapporteur attaches great importance to cooperation and coordination with other human rights special rapporteurs and representatives and has, as will be noted in the sections below, on numerous occasions taken joint action, including joint urgent appeals with other special rapporteurs mandated by the Commission on Human Rights. The Special Rapporteur is also grateful for the support she has received from the High Commissioner for Human Rights, and looks forward to further strengthening this cooperation in the future. During her field missions conducted in the last year, the Special Rapporteur had the opportunity to work closely with United Nations field presences, including field staff of the Office of the High Commissioner for Human Rights. She would like to commend the staff for their work for the protection and promotion of human rights, which they carry out with great dedication and often under difficult circumstances.

9. During the present reporting period the Special Rapporteur has cooperated with a large number of representatives of non-governmental organizations, lawyers and private individuals engaged in human rights work, and who continue to be invaluable sources of information, advice and criticism. She is grateful for the support she has received from these persons, and looks forward to further developing her cooperation with non-governmental organizations and other members of civil society. The role of the media in spreading awareness about human rights and drawing attention to issues of particular concern cannot be underestimated. The Special Rapporteur has, especially during her field missions, been encouraged by the interest in human rights concerns shown by both the local and international media. She looks forward to continuing this cooperation in the future.

B. Communications

10. The following paragraphs give an overview of communications sent to Governments in the course of the last year. The Special Rapporteur wishes to note that these communications are exclusively based on allegations and reports brought to her attention. Therefore, they should only be seen as approximately indicative of the occurrence of violations of the right to life in the countries under consideration. Every case mentioned below represents a tragedy, and the figures presented cannot express the sorrow and suffering of family members who have lost their loved ones. Such violations affect the sense of security of society as a whole. The Special Rapporteur believes that her mandate can only be useful as a human rights mechanism if it manages to bring out the voices of the victims and their families as well as civil society, and convince Governments to take action to finally bring an end to these atrocities.

11. During the period under review, the Special Rapporteur transmitted urgent appeals to the Governments of the following 42 countries: Argentina (2), Bolivia (1), Botswana (1), Bahamas (2), Brazil (4), Bosnia and Herzegovina (1), Burkina Faso (1), Burundi (1), Chile (3), China (7) Colombia (33), Dominican Republic (1), Ecuador (2), El Salvador (1), Germany (1), Guatemala (3), Haiti (1), Honduras (1), India (1), Indonesia (8), Iran (Islamic Republic of) (4), Iraq (1), Jamaica (1), Mexico (7), Pakistan (3), Peru (2), Philippines (7), Russian Federation (1), South Africa (1), Sri Lanka (1), Sudan (2), Tajikistan (1), Trinidad and Tobago (2), Turkey (6), Uganda (1), United States of America (9), United Kingdom of Great Britain and Northern Ireland (1), Uzbekistan (1), Venezuela (2), Yemen (1), Yugoslavia (2) and Zambia. She further sent two urgent appeals to the Palestinian Authority. Among the urgent appeals sent by the Special Rapporteur 26 were transmitted jointly with other mechanisms of the Commission on Human Rights, such as the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences, the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative on the situation of human rights in the Islamic Republic of Iran and the Representative of the Secretary-General on Internally Displaced Persons.

12. The urgent appeals transmitted concerned 213 individuals and the following groups of persons: people at risk owing to the wave of violence in East Timor; a large number of prisoners detained in Iraq; journalists and human rights workers from Mexican non-governmental organizations; indigenous communities in Brazil; opposition senators in Pakistan; the entire population of Grozny, Chechnya; human rights defenders in Burkina Faso; Mapuche

communities in Chile, lawyers in Turkey, a large number of people sentenced to death in China, inhabitants of La Gabarra and Monterralo, Colombia; university leaders and trade unionists from Antioquia department, Colombia, indigenous leaders of the Comunidades de Paz (Peace Communities) of Villahermosa and Clavellino, Chocó department, Colombia, the entire population of Santo Domingo , Colombia and the inhabitants of Ajvalija near Pristina, Kosovo.

13. In addition, the Special Rapporteur transmitted allegations regarding violations of the right to life of more than 900 individuals to the Governments of the following 39 countries: Afghanistan, Albania, Angola, Austria, Azerbaijan, Bangladesh, Belgium, Brazil, Bulgaria, Burundi, Cameroon, Chile, China, Colombia, Democratic Republic of the Congo, Guatemala, Guinea-Bissau, Haiti, Honduras, India, Indonesia, Israel, Mexico, Myanmar, Nepal, Nicaragua, Pakistan, Philippines, Russian Federation, Rwanda, Saudi Arabia, Sierra Leone, Sri Lanka, Sudan, Tunisia, Turkey, United States of America, Yugoslavia and Zambia. She also transmitted allegations to the Palestinian Authority.

14. During the period under review, from 1 November 1998 to 15 December 1999, the Governments of the following countries provided a reply to communications addressed to them during 1998 and previous years: Algeria, Argentina, Belgium, Brazil, Cameroon, Chile, China, Colombia, Democratic Republic of the Congo, Dominican Republic, Germany, Guatemala, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Kuwait, Malaysia, Mexico, Nepal, Pakistan, Peru, Philippines, Republic of Korea, Senegal, Sudan, Turkey, United States of America, Venezuela, Yugoslavia and Zambia.

15. The Special Rapporteur wishes to take this opportunity to thank those Governments which have provided comprehensive replies to her communications for their cooperation. However, she regrets that some Governments have replied only in part or on an irregular basis to her inquiries. She is further concerned that the Governments of Albania, Angola, Azerbaijan, Bahamas, Bangladesh, Bolivia, Botswana, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Burundi, Ecuador, El Salvador, Guinea-Bissau, Haiti, Honduras, Israel, Myanmar, Nicaragua, Russian Federation, Rwanda, Saudi Arabia, Sierra Leone, South Africa, Sri Lanka, Tajikistan, Thailand, Trinidad and Tobago, Tunisia, Uganda, Uzbekistan, Yemen and Zambia did not reply to any of her communications and requests for information transmitted in the last year, nor did the Taliban Council or the Palestinian Authority. The Special Rapporteur regrets that the Government of Yemen has not replied to any communications in the last five years, and the Governments of Cambodia and Papua New Guinea have not replied to any of the communications transmitted by the Special Rapporteur in the past four years. The Governments of Rwanda, Romania and Sri Lanka have not replied to communications in the last three years.

C. Visits

16. The Special Rapporteur conducted a mission to the former Yugoslav Republic of Macedonia from 23 to 25 May, and to Albania from 25 to 28 May 1999. This was the first field mission undertaken by the Special Rapporteur since her appointment in August 1998. The main purpose of the visit was to collect first-hand information regarding the situation in Kosovo, with a view to assessing and evaluating allegations of human rights violations relevant to her mandate reported to have occurred there. It should be noted that the mission was carried out at a time when a visit to Kosovo itself was not possible, as the operations led by the North Atlantic Treaty

Organization against the Federal Republic of Yugoslavia were still ongoing. A follow-up visit to Kosovo will therefore be necessary. The Special Rapporteur's observations during this mission can be found in addendum 2 to the present report.

17. At the invitation of the Government the Special Rapporteur visited Mexico from 12 to 24 July 1999. The Government's invitation came in response to a long-standing request by the previous Special Rapporteur, Mr. Bacre Waly Ndiaye, which was reiterated by the present Special Rapporteur upon her appointment. The main objective of the visit was to investigate and gather information about repeated allegations of extrajudicial killings and in particular reports of massacres in the states of Chiapas and Guerrero. The Special Rapporteur's report on this mission can be found in addendum 3 to the present report. The Special Rapporteur wishes to thank the Government for its cooperation during her mission to Mexico.

18. From 4 to 10 November the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences, conducted a joint mission to East Timor. The visit was undertaken pursuant to resolution S-4/1 adopted on 27 September 1999 by the Commission on Human Rights at its special session on the situation in East Timor. The findings of the Special Rapporteurs are reflected in their joint mission report submitted to the General Assembly (A/54/660).

19. In the course of last year the Special Rapporteur wrote to a number of Governments expressing her interest in visiting their countries. At the time of writing, the Governments of Nepal, Turkey and Colombia had responded positively to these communications, and the Special Rapporteur looks forward to carrying out missions to these countries in the near future. The Special Rapporteur has requests pending with the Governments of Algeria, Sierra Leone, Bahrain and Uganda.

20. Field missions play a crucial role in the discharge of the Special Rapporteur's mandate, as they allow her to acquaint herself directly with situations of concern and to gather first-hand information about alleged extrajudicial, summary or arbitrary executions brought to her attention. Information gathered in the field also assists the Special Rapporteur to prepare balanced and well-documented reports on the situation in the countries under scrutiny, and to present recommendations aimed at addressing problems identified. She therefore hopes that an increasing number of Governments will consider her requests for invitations in a constructive and positive way.

III. SITUATIONS INVOLVING VIOLATIONS OF THE RIGHT TO LIFE

A. Capital punishment

21. In its resolution 1999/35, the Commission on Human Rights requested the Special Rapporteur to continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto. In this context, the Special Rapporteur transmitted 40 urgent appeals on behalf of 65

identified individuals as well as on behalf of groups of unidentified persons to the Governments of the following countries: Bahamas (1), Botswana (1), Burundi (1), China (3), India (1), Iran (Islamic Republic of) (2), Jamaica (1), Pakistan (1), Philippines (7), Tajikistan (1), Trinidad and Tobago (2), Turkey (2), Uganda (1), United States of America (15), Yemen (1). She also sent one urgent appeal to the Palestinian Authority.

22. The Special Rapporteur transmitted an urgent appeal to the Government of Uganda concerning the death sentences of 28 people, urging the Government to continue the de facto moratorium it had implemented since 1996, in accordance with the international trend towards abolition. The Special Rapporteur issued a press release welcoming the decision of the President of the Philippines, Joseph Estrada, to suspend executions and expand a committee reviewing death sentences, hoping that this would lead to the abolition of the death penalty in the country. The Special Rapporteur also sent an urgent appeal to the Government of China after having been informed that 238 prisoners who had been sentenced to death were expected to receive their final verdict from the Guandong Provincial High People's Court in connection with the fiftieth anniversary of the founding of the People's Republic of China.

B. Death threats

23. The Special Rapporteur transmitted urgent appeals aimed at preventing loss of life after having received reports of situations where the lives and physical integrity of persons were feared to be in danger. In this context urgent appeals were sent to the Governments of the following countries: Argentina (2), Bolivia (1), Brazil (4), Bosnia and Herzegovina (1), Burkina Faso (1), Chile (2), Colombia (15), Dominican Republic (1), Ecuador (2), El Salvador (1), Guatemala (3), Haiti (1), Honduras (1), India (1), Indonesia (5), Mexico (5), Pakistan (1), Peru (2), Russian Federation (1), South Africa (1), Sri Lanka (1), Turkey (4), Yugoslavia (2).

24. These urgent appeals concerned at least 43 identified persons and groups such as the inhabitants of the municipalities La Gabarra and Monterralo, Colombia; witnesses; indigenous groups such as the Macuxi indigenous communities in the Raposa and Serra do Sol, Roraima State, Brazil; and members of opposition parties such as the opposition senators in Pakistan; and human rights groups.

C. Deaths in custody

25. The Special Rapporteur transmitted allegations of the death in custody of 41 persons to the Governments of the following countries: Afghanistan (3), Albania (1), Angola (1), Austria (1), Azerbaijan (1), Brazil (3), Burundi (2), Cameroon (3), Germany (1), India (4), Indonesia (1), Nepal (1), Nicaragua (1), Pakistan (9), Saudi Arabia (2), Sudan (5), Tunisia (1), and Turkey (1).

26. During the present reporting period, the Special Rapporteur transmitted an urgent appeal jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning the situation of 13 persons in Iran who had been detained without being informed of the reason for their arrest. The Special Rapporteur further sent a joint urgent appeal with the Special Rapporteur on the question of torture to the Government of Iraq expressing concern for the lives of a large number of unidentified persons detained in connection with the murder of Ayatollah

Mohammed Sadeq al-Sadr and his two sons. An urgent appeal was also transmitted to the Government of the Sudan jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of 26 individuals who had been arrested under unclear circumstances. The Special Rapporteur transmitted two urgent appeals to the Government of Turkey jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and with the Special Rapporteur on the question of torture expressing concerns regarding the safety of the detained lawyers of Abdulah Ocalan.

D. Deaths due to excessive use of force by law enforcement officials

27. The Special Rapporteur transmitted allegations regarding violations of the right to life of 201 persons, of whom 189 were identified, to the Governments of the following countries: Angola (5), Brazil (2), Bulgaria (4), Cameroon (8), Chile (1), Guatemala (1), Guinea-Bissau (2), Haiti (2), Honduras (9), India (7), Indonesia (2), Israel (5), Mexico (2), Pakistan (3), Philippines (1), Rwanda (1), Thailand (2), Turkey (1), United States of America (1) and Zambia (1). One allegation was sent to the Palestinian Authority.

28. The Special Rapporteur is deeply concerned at the abuse of force by the both the Indonesian police and army while performing law enforcement duties in various locations including Jakarta, East Timor and Aceh. The Special Rapporteur also appealed to the Government of Indonesia, expressing her concern over the likely eruption of violence before the popular consultation in East Timor after having been informed of the systematic abuse of force by the Indonesian police during demonstrations in Jakarta and in Dili as well as in other provincial capitals. The continuing incidents of deaths due to police abuse in Angola is also a cause for great concern.

E. Deaths due to attacks or killings by security forces, paramilitary groups or private forces cooperating with or tolerated by the State

29. The Special Rapporteur transmitted allegations on behalf of 734 individuals killed by security forces, by paramilitary groups or private forces to the Governments of Angola (3), Brazil (1), Burundi (2), Colombia (14), the Democratic Republic of the Congo (25), India (2), Indonesia (11), Myanmar (13), Sierra Leone (1) and Sri Lanka (7). For a more detailed discussion of this issue, reference is made to chapter V, section B, of the present report.

F. Violations of the right to life during armed conflict

30. The Special Rapporteur is deeply disturbed by the increasing number of civilians and persons hors de combat killed in situations of armed conflict and internal strife in various regions of the world. In the last year many thousands of people not participating in hostilities have lost their lives in conflict situations. She is saddened by the fact that the majority of the victims of today's conflicts are civilians, including a large number of women and children. In December 1999, the Special Rapporteur sent an urgent appeal to the Government of the Russian Federation, expressing her deep concern over the ultimatum by the Russian Federation authorities to the people of Grozny to leave the city or face intensified attacks. The Special Rapporteur also sent several communications to the Government of Sri Lanka regarding civilians

allegedly killed in air strikes and other operations by the Sri Lankan armed forces. During the present reporting period, the Special Rapporteur transmitted 449 cases of alleged killings of civilians by the army of the Democratic Republic of the Congo.

G. Expulsion, refoulement or return of persons to a country or place where their lives are in danger

31. The Special Rapporteur transmitted a joint urgent appeal with the Special Rapporteur on the question of torture to the Government of Uzbekistan regarding an Uzbek national who allegedly had been forcibly repatriated from Russia. The Special Rapporteur was concerned that the man might face the death penalty after being accused of having participated in bomb attacks in Tashkent in February 1999.

H. Genocide

32. In her report to the fifty-fifth session of the Commission on Human Rights (E/CN.4/1999/39), the Special Rapporteur noted with regret that the Secretary-General's Investigative Team charged with investigating violations of human rights and international law in the Democratic Republic of the Congo had been unable to complete its work owing to lack of cooperation on the part of the Government. In its report (S/1998/581, annex) the Team presented the preliminary conclusion that "the systematic massacre of those [Rwandan Hutus] remaining in Zaire was an abhorrent crime against humanity, but the underlying rationale for the decisions is material to whether these killings constituted genocide" (para. 30).

33. At its fifty-fifth session the Commission on Human Rights adopted resolution 1999/56, entitled "Situation of human rights in the Democratic Republic of the Congo", in which it requested the Special Rapporteurs on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to carry out, immediately after the signing of a ceasefire agreement or as soon as security considerations permit, and where appropriate, a joint mission to investigate all massacres carried out in the country with a view to bringing to justice those responsible. The Special Rapporteur attaches great importance to this mission, and looks forward to cooperating with the other mechanisms of the Commission on Human Rights in this regard. She notes that the crime of genocide will be included in the jurisdiction of the International Criminal Court once it is established. She also welcomes progress made by the International Tribunal for Rwanda in investigating and prosecuting persons suspected of gross human rights violations, including the crime of genocide.

I. Rights of victims

34. Victims or the families of victims have the right to receive adequate compensation from the Government, as a recognition of the State's responsibility for acts carried out by its personnel. However, it should be emphasized that granting compensation does not in any way reduce the duty of the State to investigate and prosecute human rights violations. At the same time, the right of the victim is to be regarded as a matter of justice and not as an instrument or means of revenge.

IV. ISSUES REQUIRING THE SPECIAL RAPPORTEUR'S ATTENTION

A. Violations of the right to life of women

35. During the period under review, the Special Rapporteur took action on behalf of 57 identified women. The Special Rapporteur transmitted urgent appeals on behalf of 25 women to the Governments of Chile, China, Colombia, the Dominican Republic, Guatemala, Honduras, India, Indonesia, Mexico, Pakistan, Peru, South Africa, Trinidad and Tobago, Turkey and the United Kingdom. In addition, the Special Rapporteur transmitted allegations of 33 cases of violations of the right to life of women, said to have occurred in Bangladesh (1), Chile (1), China (1), Democratic Republic of the Congo (2), Indonesia (2), Myanmar (11), Pakistan (5), the Russian Federation (1), Rwanda (2) and Sri Lanka (7).

36. It may be noted that the figures presented above do not necessarily represent the total number of women on whose behalf the Special Rapporteur has taken action, as they only reflect those cases in which it was specifically indicated that the victim was female. Some allegations sent by the Special Rapporteur also refer to larger groups of persons which likely include women. Thus, one of the communications transmitted to the Government of the Democratic Republic of the Congo concerned an incident in which several dozen civilians, including an unknown number of women and children, were reportedly killed by the army. The Special Rapporteur also sent a joint urgent appeal with the Special Rapporteur on violence against women, its causes and consequences, to the Government of Guatemala regarding violence and threats against six street children, three of whom were girls. The Special Rapporteur has further received a considerable amount of information regarding traditional practices, particularly so-called "honour killings", which are discussed separately in chapter V, section C, of the present report.

B. Violations of the right to life of minors - children in armed conflict

37. During the period under review, the Special Rapporteur took action on behalf of 33 minors, of whom 32 were identified. She transmitted urgent appeals on behalf of 15 minors to the Governments of Guatemala, Mexico and the United States of America. The Special Rapporteur took action with regard to eight persons who were facing imminent execution in the United States of America after having been sentenced to death for crimes committed when they were under 18 years of age. Allegations concerning violations of the right to life of 18 minors were sent to the Governments of Brazil (2), Chile (1), Democratic Republic of the Congo (1), Honduras (2), Israel (2), Mexico (1), Myanmar (2), Pakistan (1) and Sri Lanka (6).

38. The Special Rapporteur is deeply concerned at continuing and increasing reports of the use of children as soldiers and support staff in the world's conflicts. It is estimated that today more than 300,000 children under the age of 18 are serving in government forces or armed groups in various parts of the world. Some 120,000 children are reportedly engaged in armed activities in Africa alone. The youngest of these children are allegedly no more that 8 years old. The Special Rapporteur is particularly disturbed by reports from the Democratic Republic of the Congo, where both government forces and the RCD (Rassamblement congolais pour la démocratie) are said to have forcibly recruited large numbers of children as young as 12 years of age to participate in armed activities. It is further reported that thousands of children, some no

more than 14 years of age, have been recruited by Taliban and opposition forces in Afghanistan. The Taliban authorities have denied these claims. The Special Rapporteur notes with deep concern that an estimated 5,000-8,000 children have reportedly been abducted in Uganda by the Lord's Resistance Army (LRA). Most of the children are 14 - 16 years old, but reports suggest that children as young as 8 to 9 years are among the abducted. The children are reportedly forced to march for days carrying military equipment and supplies to LRA camps in Uganda and southern Sudan. Many of the abducted boys are forcibly recruited as soldiers.

39. Currently, under international human rights and humanitarian law standards the age-limit for recruitment for military service is set at 15 years. Article 1 of the Convention of the Rights of the Child stipulates that "[F]or the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier." The only exception to this principle under the Convention is in relation to recruitment for military service and participation in hostilities (art. 38). In this context it is worth noting that most countries have set 18 years as the age when persons obtain the right to vote and participate in political life. It may further be noted that the Human Rights Committee, in its general comment on article 10 of the International Covenant on Civil and Political Rights, recommends that the age for majority should be 18 years, when it comes to matters of criminal responsibility. Given the extreme dangers and strains, both physical and psychological, combatants are exposed to in war situations, the Special Rapporteur finds it unacceptable that in some States the age-limit determined for majority for the purposes of military service is lower than the limit set in most countries for matters of political participation and criminal responsibility. There is a growing international legal consensus that children under the age of 18 should be entitled to special protection of their rights. It is clear that a child needs and must be afforded more, and not less protection in times of war or armed conflict.

40. At its fifty-fifth session the Commission on Human Rights adopted resolution 1999/80, entitled "Rights of the Child", in which it reaffirmed (para. 15) "That the rights of the child as laid out in international human rights instruments and international humanitarian law are at their most pertinent in time of armed conflict". In the same paragraph the Commission expressed grave concern at the numerous damaging effects of armed conflicts on children and emphasized the need for the world community to focus increased attention on this serious problem with a view to alleviating those effects. More importantly, in paragraph 16 (b) of the resolution the Commission called upon all States and other parties to armed conflict "to end the use of children as soldiers and ensure their demobilization, and to implement effective measures for the rehabilitation and reintegration into society of child soldiers and combatants, child victims in cases of armed conflict or foreign occupations, and invite[d] the international community to assist in this endeavour".

41. The Special Rapporteur welcomes the work of the open-ended inter-sessional working group of the Commission on Human Rights on a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which she hopes will soon be finalized. She strongly recommends that the draft protocol include provisions prohibiting the compulsory or voluntary recruitment of persons under the age of 18 into armed forces or armed groups or the use of them to participate in armed hostilities.

42. The Special Rapporteur is concerned that many countries continue the practice of recruiting juveniles as "volunteers" to their armed forces. Apart from the fact that many of these young persons are actually forcibly recruited, one should keep in mind that children and juveniles often lack maturity, and cannot therefore be expected to take informed and rational decisions or fully appreciate the implications of their actions or the dangers they may face. As children do not have the same sense of judgement as adults, they may act in an immature way, which in situations of armed hostilities may easily result in irrational and arbitrary acts of violence, including extrajudicial killings. In view of these considerations and the arguments presented above, the Special Rapporteur wishes to restate her concern that the use of children and juveniles in armed conflicts constitutes a grave threat to the right to life of both the children themselves and other persons affected by armed conflict.

C. Violations of the right to life of refugees and internally displaced persons

43. The Special Rapporteur is deeply disturbed by reports of deliberate attacks against refugees and internally displaced persons (IDPs). Such incidents have been particularly common in situations of internal conflict and unrest, where the direct targeting of civilians has increasingly become part of the tactics employed by the parties involved. During the wave of violence that swept East Timor in 1999, displaced persons came under repeated attack from pro-integrationist militias and government forces while sheltering in schools, churches and abandoned buildings. There are reports that East Timorese civilians displaced in West Timor and other neighbouring islands have been subjected to serious human rights abuses, including violations of the right to life. During the conflict in Kosovo, groups of displaced civilians - at times entire villages - were attacked by paramilitary elements and police or army units. In Colombia, which has one of the largest IDP populations in the world (some estimates put the total number at 1.4 million), the internally displaced continue to be subjected to armed attacks and extrajudicial killings by the parties to the ongoing internal conflict. The Special Rapporteur is also disturbed by continuing reports of killings of refugees and displaced persons in Rwanda.

44. In this context the Special Rapporteur wishes to draw attention to the Guiding Principles on Internal Displacement, which set out the rights and guarantees relevant to the protection of internally displaced persons in all phases of displacement. Under Guiding Principles 10 (2) and 11 (2) internally displaced persons shall be protected against attacks against their settlements or camps and acts of violence intended to spread terror.

D. Violations of the right to life of individuals carrying out peaceful activities in defence of human rights and fundamental freedoms

45. During the present reporting period, the Special Rapporteur transmitted urgent appeals on behalf of 40 persons carrying out peaceful activities in defence of human rights and fundamental freedoms, requesting the Governments concerned to take necessary measures to protect these persons' right to life. The Special Rapporteur took action on behalf of human rights defenders in the following countries: Argentina (2), Bolivia (1), Brazil (4), Burkina Faso (2), Chile (2), Colombia (18), El Salvador (1), Guatemala (3), Honduras (1), Mexico (2), Pakistan (1), Peru (2) and Yugoslavia (1). In addition to urgent actions on behalf of individuals, the Special Rapporteur also sent appeals with regard to threats against human rights organizations and

institutions. The Special Rapporteur transmitted allegations of violations of the right to life of 15 human rights defenders in the following countries: Colombia (13), Guatemala (1), and Haiti (1).

46. For a more detailed discussion regarding violations of the right to life of human rights defenders, reference is made to chapter V, section D, of this report.

E. Violations of the right to life of persons exercising their right to freedom of opinion and expression

47. During the period under review, the Special Rapporteur sent urgent appeals in 22 cases of threats against persons exercising their right to freedom of expression, mostly journalists and participants in demonstrations, in the following countries: Bosnia and Herzegovina (1), China (4), Colombia (7), Ecuador (1), Iran (Islamic Republic of) (5), Mexico (3), and Pakistan (1). In addition, the Special Rapporteur sent appeals of a general nature to the Government of Indonesia expressing concern over the security of demonstrators. A general appeal was also sent to the Government of Iraq following demonstrations in Baghdad in February 1999, in which the police had allegedly opened indiscriminate fire on the participants. The Special Rapporteur further sent allegations regarding violations of the right to life of persons exercising their right to freedom of expression in 15 cases in the following countries: Chile (1), China (1), Colombia (1), India (5), Mexico (2), Russian Federation (1), Sudan (1), Tunisia (1), Turkey (1), and Yugoslavia (1). For a more detailed discussion of this issue, reference is made to chapter V, section D, of the present report.

F. The right to life and the administration of justice

48. The Special Rapporteur took action on behalf of six individuals involved in or related to the administration of justice. Urgent appeals were sent to the following countries: Brazil (1), Dominican Republic (1), Mexico (2), South Africa (1), and United Kingdom (1). The Special Rapporteur further sent one joint appeal with the Special Rapporteur on the independence of judges and lawyers and another with the Special Rapporteur on the question of torture to the Government of Turkey expressing concern over the security of the lawyers representing Abdulah Ocalan. It may be noted that many of the lawyers referred to above had received threats because of their work for the promotion and protection of human rights.

G. Violations of the right to life of persons belonging to national, ethnic, religious or linguistic minorities

49. The Special Rapporteur acted on behalf of a variety of persons considered to belong to national, ethnic, religious and/or linguistic minorities in their respective countries. Urgent actions were sent to the following countries: Brazil (1), Chile (1), China (4), Colombia (1), Indonesia (6), Iran (Islamic Republic of) (1), and Mexico (1). In addition the Special Rapporteur sent allegations of violations of the right to life to the Governments of China, Colombia and Indonesia. The Special Rapporteur is increasingly disturbed by continuing reports of violations of the right to life of members of the Uighur community and Muslim leaders in Xuar province in

China. She is also concerned that members of indigenous communities in a number of Latin American countries continue to be exposed to violence and attacks, including extrajudicial killings.

H. Violations of the right to life and non-State actors

50. During the present reporting period, the Special Rapporteur has received continuous reports of violence and extrajudicial killings attributed to armed opposition groups and other non-State actors. It should be noted that violent acts committed by non-State actors do not fall within the purview of the Special Rapporteur's mandate, which only allows her to take action when the perpetrators are believed to have a direct or indirect link with the State. However, the Special Rapporteur wishes to express her deep concern over these atrocities, which constitute serious violations of basic humanitarian and human rights principles. She also notes with regret that in some countries Governments have made use of excessive and indiscriminate force in their efforts to counter armed opposition groups, which in many cases has resulted in extensive civilian casualties and unnecessary loss of life.

51. The Special Rapporteur is particularly alarmed by violent acts committed by groups resorting to terrorism in the pursuit of their aims. These actions must be denounced as serious violations of universally recognized human rights and humanitarian principles. The Special Rapporteur welcomes the adoption on 9 December 1999 by the General Assembly of the International Convention for the Suppression of the Financing of Terrorism (resolution 54/109), which supplements the 11 existing conventions against terrorism. In this context, she further wishes to recall that the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations adopted by the United Nations General Assembly on 24 October 1970, affirms that: "Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts." Furthermore, on 11 December 1995, the General Assembly adopted resolution 50/53, entitled "Measures to eliminate terrorism", in which it confirmed that criminal acts intended or calculated to provoke a state of terror are in any circumstance unjustifiable.

I. Violations of the right to life of individuals who have cooperated with representatives of United Nations human rights bodies (reprisals)

52. The Special Rapporteur sent an urgent appeal to the Government of Indonesia on behalf of a human rights activist who had received death threats after having cooperated with the Special Rapporteur on violence against women, its causes and consequences.

53. Following her mission to Mexico in July 1999, the Special Rapporteur was informed that members of the non-governmental organization Centro de Derechos Humanos Miguel Agustín Pro Juárez, with which the Special Rapporteur had cooperated during the visit, had received death threats. It was reported that the organization had received letters threatening the lives of its Director, Edgar Cortez Morales, and the Coordinator of the Legal Department, Digna Ochoa y Placido. The Special Rapporteur sent a joint appeal with the Special Rapporteur on freedom of opinion and expression urging the Government to investigate these reports and to ensure the

safety of the persons concerned. Another joint appeal was sent, following reports that the threats had continued. In its reply to these communications the Government of Mexico stated that it condemned any sort of threats against civil organizations and adding that officials of the National Human Rights Commission and public security officers had been in contact with the Centro de Derechos Humanos Miguel Augustin Pro Juárez to agree on measures to be taken to enhance the security of its members.

J. Violations of the right to life of members of sexual minorities

54. The Special Rapporteur has continued to receive serious reports of persons having been subjected to death threats or extrajudicially killed because of their sexual orientation. It has been reported that on 4 August 1998 in Brazil, four military police officers in the city of Salvador forced two transvestite sex workers to throw themselves into the sea, after having ill-treated and humiliated them. One of the two persons, Junior da Silva Lago, reportedly drowned and his body was found three days later. Local non-governmental sources have reportedly documented the murders of 1,600 homosexuals in Brazil in the period from 1980 to 1997. It is alleged that in only 5 per cent of these cases have the perpetrators been prosecuted. The Special Rapporteur has also been informed that in the last couple of years a number of homosexual men, bisexuals and transvestites have been murdered or subjected to death threats in El Salvador.

55. The Special Rapporteur has further been alerted to the murder of Stefan Itoafa, a lawyer and journalist in the city of Constanta in Romania. He was also the local coordinator of the League for the Defence of Human Rights in Constanta. His death has been linked to his alleged homosexuality and his journalistic work to uncover corruption and organized crime. On 13 October 1998, Mr. Itoafa was found murdered in his apartment. It is reported that he had been stabbed and his throat had been cut. His hands were apparently tied behind his back. The Special Rapporteur is concerned that the police, when investigating the murder of Mr. Itoafa, reportedly released information to the media about the victim's alleged homosexuality, describing the murder as an "act of jealousy" by another homosexual. It is alleged that the information released by the police also included medical details supposedly suggesting that Mr. Itoafa had previously engaged in homosexual relations. The prejudiced attitude displayed by the police has given rise to fears that Mr. Itoafa's case will not be adequately investigated.

56. During her mission to Mexico from 12 to 24 July 1999, the Special Rapporteur met with the Comisión Cuidadana contra los Crimenes de Odio por Homofobia, a non-governmental organization working against violence and so-called "hate crimes" against members of sexual minorities in Mexico. According to information provided by this organization, in the period January 1995-May 1997, at least 125 persons were murdered because of their sexual orientation, 120 of them men. It was reported that the majority of the victims had been killed in an extremely violent and brutal way: their bodies were often found naked with hands and feet tied and with signs of torture, stabbing, strangulation or mutilation. Concern was also expressed that the prejudiced attitude of the authorities, together with tendentious media reports had contributed to an atmosphere of impunity and indifference about crimes committed against members of sexual minorities. The Special Rapporteur brought these concerns to the attention of the Mexican authorities and the Human Rights Commission of the Federal District. They claimed that the authorities did not discriminate against anyone on the ground of sexual orientation, including in the sphere of criminal investigation and prosecution.

57. It is a cause for great concern that in some States homosexual relationships are still punishable by death. It must be recalled that under article 6 of the International Covenant on Civil and Political Rights death sentences may only be imposed for the most serious crimes, a stipulation which clearly excludes matters of sexual orientation. In this context, the Special Rapporteur wishes to reiterate her belief that the continuing prejudice against members of sexual minorities and especially the criminalization of matters of sexual orientation increases the social stigmatization of these persons. This in turn makes them more vulnerable to violence and human rights abuses, including death threats and violations of the right to life, which are often committed in a climate of impunity.

V. ISSUES OF SPECIAL CONCERN TO THE SPECIAL RAPPORTEUR

A. Capital punishment

58. The Special Rapporteur wishes to emphasize that the death penalty must under all circumstances be regarded as an extreme exception to the fundamental right to life, and must as such be interpreted in the most restrictive manner possible. It is also indispensable that all restrictions and fair trial standards pertaining to capital punishment contained in international human rights instruments are fully respected in proceedings relating to capital offences.

59. The Special Rapporteur takes action in cases of capital punishment in which there is reason to believe that international restrictions, which are analysed in the paragraphs below, are not respected. In such cases, the carrying out of a death sentence may constitute a form of summary or arbitrary execution. Therefore, the Special Rapporteur has based her assessment of cases brought to her attention on the need to ensure full respect of the right to a fair trial, including guarantees as regards the impartiality, independence and competence of the judiciary. In addition, the Special Rapporteur has been guided in her work by the basic principles of the desirability of the abolition of capital punishment and the need to observe special restrictions and limitations in cases when the death penalty is applied.

1. Desirability of the abolition of the death penalty

60. While capital punishment has not yet been prohibited under international law, various United Nations human rights organs and bodies have, on several occasions, reaffirmed the growing international consensus in favour of the abolition of the death penalty. Already in 1971 the General Assembly called on States to progressively restrict the use of the death penalty with a view to its abolition. During its fifty-fifth session the Commission on Human Rights adopted for the third consecutive year a resolution (1999/61) calling for restrictions on the use of the death penalty. The Commission urged all States that still maintain the death penalty to establish a moratorium on executions, with a view to completely abolishing the death penalty. It also called on retentionist States to comply fully with their obligations under the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child with regard to the death penalty.

61. The Special Rapporteur welcomes the fact that the Statute of the International Criminal Court, adopted in Rome on 17 July 1998 does not include capital punishment among the penalties that may be imposed by the Court. It is further worth noting that the International

Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda established by the Security Council in 1993 and 1994, respectively, are not authorized to impose death sentences.

62. Important initiatives aimed at the abolition of the death penalty have also been taken on the regional level. Both the European and the American conventions on human rights have special protocols for the abolition of the death penalty. All new members of the Council of Europe are required to sign within one year, and ratify within three years of joining the organization, Optional Protocol No. 6 to the European Convention, aimed at abolishing the death penalty, and are also required to place an immediate moratorium on executions. In this regard, the Special Rapporteur welcomes the announcement in December 1999 by the Constitutional Court of Albania that the death penalty is incompatible with the Albanian Constitution. In the last years Albanian courts have continued to pass death sentences, although a moratorium on executions was introduced in 1995 when Albania joined the Council of Europe. It is reported that 20 persons who had been sentenced to death have had their sentences suspended following the decision of the Constitutional Court.

63. Over half of the countries in the world have now abolished the death penalty either in law or in practice. Around 70 countries and territories have abolished capital punishment for all crimes. Since 1976, on an average more than two countries a year have removed the death penalty, from their legislation. The adoption of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty in 1989 was an important confirmation of the international community's commitment to abolish the death penalty. The Protocol has now been ratified by 40 States and another 3 States have signed it, thus indicating their intention of becoming States parties at a later stage. The trend towards abolition of the death penalty is encouraging. Regrettably, the resistance comes mainly from countries where capital punishment is most likely to be imposed in an unfair manner and after trials that fall short of international standards. The courts in many retentionist countries do not meet the criteria of an independent judiciary as laid down in the United Nations Basic Principles on the Independence of the Judiciary. Another cause for concern is the manner in which death sentences are executed. Public hangings and other inhuman forms of execution continue to be practised in many countries. It is estimated that in 1998 at least 2,258 persons were executed in 37 countries. In the same period more than 4,800 persons were sentenced to death in 78 countries. Around 1,700 executions were recorded in China alone.

2. Fair trial

64. The execution of a death sentence is irrevocable. Therefore, it is imperative that legal proceedings in relation to capital offences conform to the highest standards of impartiality, competence, objectivity, and independence of the judiciary, in accordance with the pertinent international legal instruments. Defendants facing the imposition of capital punishment must fully benefit from the right to adequate legal counsel at every stage of the proceedings, and should be presumed innocent until their guilt has been proved beyond a reasonable doubt. These safeguards must be implemented in all cases without exception or discrimination. In this regard, the Special Rapporteur believes that the execution of a death sentence passed after a trial in which basic fair trial standards, as provided for in article 14 of the International Covenant on Civil and Political Rights, were not respected, constitutes a violation of the right to life.

65. The legal proceedings must in all cases respect and ensure the right of review of both the factual and legal aspects of the case by a higher instance, which should be composed of judges other than those who dealt with the case at first instance. Furthermore, there can be no exception to the defendant's right to seek pardon, clemency, or commutation of the sentence. The Special Rapporteur shares the view expressed by the Economic and Social Council in its resolution 1989/64 of 24 May 1989, entitled "Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty", recommending that Member States introduce mandatory appeals or review with provisions for clemency or pardon in all cases of capital punishment. In this context, the Special Rapporteur regrets to note recent developments in the Caribbean, where several States have taken measures to facilitate the implementation of the death penalty. It will be recalled that Jamaica withdrew from the first Optional Protocol to the International Covenant on Civil and Political Rights in January 1998. In May 1998, Trinidad and Tobago withdrew from the Inter-American Convention on Human Rights. At the same time it also withdrew from the Optional Protocol to the International Covenant on Civil and Political Rights, but immediately re-acceded with the reservation that it did not recognize the competence of the Human Rights Committee to receive individual petitions relating to death penalty cases. The Special Rapporteur is concerned that these decisions will effectively deprive persons facing the death penalty in these countries of an important avenue of redress and appeal. At the same time, the Special Rapporteur welcomes the decision in December 1999 by the Government of Bermuda to abolish the death penalty.

66. The Special Rapporteur is concerned at the practice of setting up special tribunals or jurisdictions in response to situations of internal conflict or other exceptional circumstances. Such tribunals are often established in order to expedite trials, which may result in hastily imposed death sentences. There are reports of serious violations of fair trial standards in connection with proceedings before special tribunals, particularly as concerns the independence and impartiality of the judiciary, since the judges are often closely connected and at times directly accountable to the law enforcement authorities or the military.

67. The Special Rapporteur is also concerned over reports that most of the more than 60 foreigners currently on death row in the United States of America have been sentenced without being informed of their right under article 36 of the Vienna Convention on Consular Relations to receive legal assistance from their respective consulates. Mr. Joseph Stanley Faulder, a Canadian national, was executed in the State of Texas in June 1999. The Special Rapporteur sent repeated appeals to the Government of the United States pointing out that Mr. Faulder had reportedly not been informed of his rights under the Vienna Convention on Consular Relations.

3. Restrictions on the use of the death penalty

68. Capital punishment for juvenile offenders is prohibited under international law. The Convention on the Rights of the Child, which has been ratified by all States except the United States of America and Somalia, clearly excludes the use of the death penalty for crimes committed by persons under the age of 18. Since 1990, six countries are known to have executed persons who were under 18 years old at the time of the crime: the Islamic Republic of Iran, Nigeria, Pakistan, Saudi Arabia, Yemen and the United States of America. The Special Rapporteur is concerned over the situation in the United States where around 70 persons are

currently on death row after having been sentenced to death for crimes committed when they were under the age of 18. In February 1999, Mr. Sean Sellers was executed in the State of Oklahoma after having been sentenced to death for murder committed when he was 16 years of age. The Special Rapporteur appealed to the Government of the United States to order a stay of Mr. Seller's execution. The Special Rapporteur is deeply concerned at the increasing use of the death penalty against children in Pakistan where, during the period under review, around 100 children were awaiting execution. The youngest of them, Bashir Ahmed, 14 years of age, was sentenced to death by a special anti-terrorist court for rape.

69. The Special Rapporteur wishes to stress that in resolution 1989/64 the Economic and Social Council also recommended that States strengthen the protection of the rights of those facing the death penalty by eliminating the death penalty for persons suffering from mental handicap or extremely limited mental capacity. Moreover, the Safeguards guaranteeing protection of the rights of those facing the death penalty stipulate that the death penalty shall not be carried out on persons who have become insane. The Special Rapporteur strongly supports these recommendations and urges States to take action to reflect these restrictions in domestic law.

70. Article 6, paragraph 2, of the International Covenant on Civil and Political Rights stipulates that, "in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes". In its General Comment 6 on article 6 of the Covenant the Human Rights Committee stated that the expression "most serious crimes" must be read restrictively to mean that the death penalty should be a quite exceptional measure. The Special Rapporteur shares this conclusion, and further believes that the death penalty should under no circumstances be mandatory by law, regardless of the charges involved. Paragraph 1 of the Safeguards guaranteeing protection of the rights of those facing the death penalty states that the scope of crimes subject to the death penalty should not go beyond intentional crimes with lethal or other extremely grave consequences. The Special Rapporteur is strongly of the opinion that these restrictions exclude the possibility of imposing death sentences for economic and other so-called victimless offences, or activities of a religious or political nature - including acts of treason, espionage and other vaguely defined acts usually described as "crimes against the State" or "disloyalty". This principle also excludes actions primarily related to prevailing moral values, such as adultery and prostitution, as well as matters of sexual orientation.

71. In July 1999, the Special Rapporteur sent a questionnaire to all States which still retain the death penalty either in law or in practice. In the questionnaire the Governments approached were requested to give information on the following issues: (a) provisions for mandatory death penalty in domestic law; (b) provisions allowing for the use of the death penalty for persons under the age of 18; (c) the number of executions of persons under the age of 18 in the last two years, or for crimes committed by persons under that age, as well as a brief description of these cases; (d) a description of the crimes for which the death penalty applies under national law. At the time of writing, the following Governments had responded to the questionnaire: Antigua and Barbuda, Armenia, Barbados, Belarus, Egypt, Japan, Libyan Arab Jamahiriya, Lithuania, Malaysia, Rwanda, Sudan, Syrian Arab Republic, Trinidad and Tobago, Ukraine, and United Arab Emirates.

72. Although the replies received so far do not allow for a comprehensive analysis of the issues raised at this stage, the Special Rapporteur would nevertheless like to make the following observations. She welcomes the steps taken by Lithuania to abolish the death penalty, as required under Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which it signed on 18 January 1999. In its reply, the Government of the Libyan Arab Jamahiriya pointed out that the aim of the Libyan society is to abolish the death penalty. The Government also stressed that there are constant appeals by the Leader of the Revolution concerning the need of such an abolition. The Government further referred to the People's Congress directives advocating the gradual abolition of this penalty.

73. The Special Rapporteur notes with appreciation that Armenia, Barbados, Barbuda, Egypt, Japan, Malaysia, Rwanda, the Syrian Arab Republic, the Libyan Arab Jamahiriya, Trinidad and Tobago, Ukraine and the United Arab Emirates do not allow for the imposition of the death penalty for persons under the age of 18 years of age for any offences or under any circumstances. However, the Special Rapporteur is deeply concerned that the death penalty remains mandatory in Armenia, Barbados, Malaysia, Rwanda, Trinidad and Tobago and Ukraine. The Special Rapporteur encourages States to respond to her questionnaire, as information received from the Governments concerned will greatly assist in the Special Rapporteur's analysis of the issue of capital punishment.

B. Deaths due to attacks or killings by security forces, paramilitary groups or private forces cooperating with or tolerated by the State

74. A cause for deepening concern for the Special Rapporteur is the increasing incidence of large-scale extrajudicial killings carried out by government security forces and armed groups reported to be sponsored, supported or tolerated by Governments. Atrocities committed by such elements have become particularly common in the context of internal disturbances and conflicts, but such incidents have also been reported in relation to conflicts with international dimensions. It is alarming that in some countries the unofficial use of irregular forces appears to have become part of government policies and counter-insurgency campaigns. These groups are usually supported or directed by the military or civilian intelligence services, which further obscures the transparency of their operations. In many cases the situation is further exacerbated by the fact that human rights violations perpetrated in this context are often ignored or actively covered up by the country's justice system. This may in some instances result in a deeply entrenched culture of impunity which further perpetuates human rights violations.

75. In East Timor, before, during and after the popular consultation on the territory's future status on 30 August 1999, militia elements and Indonesian security forces unleashed a wave of violence in which pro-independence supporters were terrorized and killed. Eyewitness testimonies heard by the Special Rapporteur during her mission to East Timor in November 1999 indicate that many of these atrocities were carried out with the approval, or in some cases with the participation of Indonesian government forces.

76. In the report on her visit to the former Yugoslav Republic of Macedonia and Albania, during which she investigated allegations relating to the situation in Kosovo, the Special Rapporteur observed that killings were mostly attributed to forces under the direct or indirect control of the Government of the Federal Republic of Yugoslavia. These crimes are described

and analysed in detail in the report of the High Commissioner for Human Rights on the situation of human rights in Kosovo to the Commission on Human Rights dated 7 September 1999 (E/CN.4/2000/7); that document, which is based on in-depth interviews with 273 persons - mostly refugees and internally displaced persons - identifies paramilitary and police forces with the cooperation or complicity of the Yugoslav army as responsible for the majority of the atrocities recorded.

77. The Special Rapporteur is deeply concerned over the continuing violence which has resulted in a growing number of extrajudicial killings in Colombia. The information received indicates that most of these atrocities have been perpetrated by paramilitary groups, which allegedly operate with the support of government forces. It is a cause for great concern that the civilian population, including the large IDP population, appear to have been deliberately targeted in the ongoing conflict.

C. Traditional practices affecting the right to life - "honour killings"

78. In the period under review the Special Rapporteur has continued to receive reports of so-called "honour killings" of women. The perpetrators of these crimes are mostly male family members of the murdered women, who go unpunished or receive reduced sentences on the justification of having murdered to defend their misconceived notion of "family honour". The Special Rapporteur is working closely with the Special Rapporteurs on violence against women, its causes and consequences and on the independence of judges and lawyers to monitor incidents of "honour killings" where the State either approves of and supports these acts, or extends a form of impunity to the perpetrators by giving tacit or covert support to the practice. The Special Rapporteur has received reports of "honour killings" from Bangladesh, Turkey, Jordan, Israel, India, Italy, Sweden, the United Kingdom, Pakistan, Brazil, Ecuador, Uganda and Morocco. The practice of "honour killings" is more prevalent although not limited to countries where the majority of the population is Muslim. In this regard it should be noted that a number of renowned Islamic leaders and scholars have publicly condemned this practice and clarified that it has no religious basis. At the same time, it is reported that some Governments of countries where Muslims are in a minority do not take a firm position against such violations of human rights on the pretext of not wanting to hurt cultural sensitivities among the minority population.

79. Information received so far indicates that "honour killings" take many forms. In some cases, young girls and women have been forced to commit suicide after public denunciation of their behaviour and open threats to their lives. Others are disfigured by acid burns; many of these women die as a result of their injuries. The Special Rapporteur has been informed that a 18-year-old woman was flogged to death in Batsail, Bangladesh, for "immoral" behaviour on the orders of clerics presiding over an informal village council. Such cowardly crimes against women are publicly and proudly confessed by the perpetrators, who are often family members of the victims. In one case in Egypt, the father of the victim reportedly killed his daughter, beheaded her and paraded her severed head through the streets of his neighbourhood shouting "I avenged my honour". It is reported that in Pakistan around 300 women are killed every year for crimes of "honour". Only a handful of the perpetrators are arrested, and most of these criminals receive only token punishment. The law also allows the heirs of the victims to forgive the accused or accept compensation (diyat) in place of imprisonment. In almost 90 per cent of such

cases, the victims are killed by their own family or at their behest. Around 25 women are reportedly killed for crimes of "honour" each year in Jordan. It is estimated that almost one in four homicides in Jordan is an "honour killing".

80. The right to life is the most fundamental of all rights and must be guaranteed to every individual without discrimination. Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women makes it obligatory for States parties to "condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women" and, to this end, undertake to make legislative changes, including sanctions, prohibiting discrimination against women. States parties are obliged "to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation". They are required "to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise". They are expected to take all appropriate measures to modify or abolish "customs and practices which constitute discrimination against women".

81. The Special Rapporteur notes that some countries retain legislation allowing for reduction of sentences and exemption from prosecution to those who kill in the name of honour. The authorities often maintain a deadly and deliberate silence over such killings, thereby encouraging perpetrators to adopt a self-righteous stance in regard to such inhuman crimes. The courts in many of these countries continue to justify such killings. Lesser punishment is often awarded on the grounds that the victim offered "provocation" by disobeying or violating cultural norms. The Special Rapporteur deplores the refusal of the Senate of Pakistan to discuss a resolution condemning "honour killings". The senators favouring such a resolution were physically intimated in the presence of the press and women activists attending the session. The Government of Pakistan has further refused to condemn honour killings despite public protests throughout the country against the decision of the Senate. The Special Rapporteur is deeply concerned at the Government's attitude of tolerance of such killings despite its statement to the contrary at the fifty-fifth session of the Commission on Human Rights.

82. The Special Rapporteur is aware of and welcomes the initiatives taken by the Governments of Jordan and Turkey to abolish or amend their legislation in order to bring it into conformity with international standards with regard to "honour killings". The Special Rapporteur was encouraged by the public statements made by His Majesty King Abdullah, Her Majesty Queen Noor, and the Minister of Justice of Jordan in support of amending the penal laws discriminating against women.

83. When studying reports on this issue, the Special Rapporteur was deeply troubled to read judgement upon judgement moralizing upon the conduct of the victims of "honour killings", while justifying acts of murder by the very people who would be expected to feel love and closeness to the women they so heartlessly kill. The Special Rapporteur is also concerned at the policy adopted by some Governments to protect potential victims of "honour killings". While those threatening the lives of these women enjoy total freedom, the victims are placed in prisons or custodial and correctional homes, sometimes for years on end. They are not free to leave these institutions once confined to them.

84. A comprehensive policy has to be drawn up to abolish practices which impinge upon the life of any person purely because of sexual distinction. The Special Rapporteur intends to continue to follow individual cases to assess the level of impunity extended to such crimes. In this connection, she would also like to acknowledge the efforts made by some Governments and judges in bringing the perpetrators of such violations to justice. Their endeavours to counter these gross violations of human rights must be supported by the international community. In this regard, the Special Rapporteur was particularly encouraged to follow the work undertaken by some leading international non-governmental organizations. Their campaigns, along with increased media exposure, have attracted much-needed international attention to the practice of "honour killings".

D. Violations of the right to life of human rights defenders and journalists

85. The Special Rapporteur is deeply concerned by continuing reports of death threats against or extrajudicial killings of human rights activists, lawyers, community workers, teachers, journalists, and other persons engaged in activities aimed at promoting human rights or publicizing human rights violations. As noted in chapter III, section B, above, she has on numerous occasions sent urgent appeals, including several joint communications with the Special Rapporteur on freedom of opinion and expression, to Governments urging them to afford protection to persons who had been subjected to death threats. The Special Rapporteur is concerned that journalists are increasingly targeted for extrajudicial killings because of their work to expose human rights abuses or to uncover irregularities and corruption on the part of persons in positions of authority. Attacks and threats have continued to be reported from many Latin American countries. The Special Rapporteur is particularly alarmed by the situation in Colombia, where at least 59 human rights defenders were reportedly killed or received death threats in the last year. She has also received reports of threats, attacks and extrajudicial killings directed against human rights defenders in several African countries, notably the Democratic Republic of the Congo and Cameroon. A large number of human rights defenders were also among the victims of the systematic killings carried out by pro-integrationist militias and Indonesian government forces in East Timor. The Special Rapporteur has received a list of 133 documented cases of extrajudicial killings or death threats directed against human rights defenders reported to have occurred worldwide in the last year.

86. The Special Rapporteur welcomes the adoption by the General Assembly on 9 December 1998 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. This instrument is an important commitment on the part of the international community to respect the rights of human rights defenders.

E. Impunity

87. As the information and analysis presented in the chapters above clearly show, one of the root causes of the occurrence of serious human rights violations, including extrajudicial, summary or arbitrary executions, is the deeply entrenched culture of impunity which continues to plague the legal system in many of the countries struggling with serious human rights problems. The inability or reluctance on the part of the authorities to bring an end to impunity for human rights offenders seriously undermines the rule of law, which is one of the most

fundamental principles of a democratic and functioning society. A culture of impunity widens a gap between those close to the power structures and others, who are vulnerable to human rights abuses. The increasing difficulties in securing justice drive people to take the law into their own hands, resulting in a further deterioration of the justice system and new outbursts of violence. In such situations non-governmental organizations can play a pivotal role in challenging impunity.

88. In this connection, it should be recalled that the Human Rights Committee has in its general comment 6 on article 6 of the International Covenant on Civil and Political Rights, as well as in numerous decisions, reaffirmed that States are obliged to investigate all human rights violations, particularly those affecting the physical integrity of the victim, to bring to justice those responsible for such abuses, to pay adequate compensation to the victims or their families, and to prevent the reoccurrence of such violations. This obligation is confirmed in other international human rights instruments, including the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and the Declaration on the Protection of All Persons from Enforced Disappearance.

89. In most situations impunity is the result of a weak and inadequate justice system, which is either reluctant or unable to investigate and prosecute cases of human rights violations, including violations of the right to life. While in some countries the judiciary is strongly influenced by or directly subordinate to the executive authorities, in others court decisions are flatly overruled or ignored by the law enforcement authorities or the armed forces. Members of security forces are often prosecuted in military courts which in many cases fall short of international standards regarding the impartiality, independence and competence of the judiciary. Extrajudicial killings and acts of murder may sometimes also go unpunished because of the sex, religious belief, ethnicity or sexual orientation of the victim, which is used as a justification of the crime. In some cases impunity is the direct product of laws or other regulations explicitly exempting public officials or certain categories of State agents from accountability or prosecution. Such regulations are often resorted to in countries facing internal unrest, and where the security forces are given wide-ranging powers to counter a real or perceived threat to national security. In certain countries the law allows the heirs of a murder victim to "forgive" the perpetrator, thereby allowing impunity for the crime. The offender instead pays compensation to the heirs of the victim. This law, which follows the Islamic principles of qisas and diyat, operates in favour of the more powerful party, thus allowing perpetrators of violations of human rights impunity. Often the victim's heirs are intimidated into a compromise and to "forgive" the accused party.

90. Situations of impunity can also arise as a result of amnesty laws, passed in the interest of national reconciliation, when countries try to come to terms with human rights abuses of past regimes. The Special Rapporteur believes that there should and can be no impunity for serious human rights abuses, particularly violations of the right to life, regardless of the past or present status or position of the alleged perpetrator. At the same time, in order to be effective and meaningful in fostering accountability among State officials and rulers, measures taken to prosecute human rights offenders cannot be selective, but must be part of broader policies aimed at promoting peace, social stability and respect for the law.

91. The Special Rapporteur has continued to receive reports and allegations relating to the question of impunity. She is particularly concerned over reports from the Great Lakes region in

Africa, especially the Democratic Republic of the Congo, where government forces continue to commit atrocities including extrajudicial, summary or arbitrary executions of civilians. The situation in Myanmar is also a cause for deepest concern, as forces under the command of the State Peace and Development Council reportedly continue to commit large-scale extrajudicial executions. The problem of impunity for human rights offenders was also very much in the focus of the field missions the Special Rapporteur undertook in the present reporting period. While in East Timor she was deeply disturbed by the flagrant impunity with which government forces and armed pro-integrationist militias were allowed to commit large-scale and calculated extrajudicial killings. During her visit to the former Yugoslav Republic of Macedonia and Albania she heard shocking testimonies of atrocities attributed to Yugoslav government forces and State-sponsored paramilitary groups in Kosovo. In her report on her mission to Mexico, the Special Rapporteur noted that there was a particular reluctance among the competent Mexican authorities to hold members of the armed forces accountable for extrajudicial killings and other grave human rights violations. She also expressed her concern over the large-scale impunity enjoyed by certain persons in positions of authority.

92. The International Criminal Court, once it is established, has the potential to assume a leading role in the fight against impunity for serious human rights violations. After several years of deliberations, the Statute for a permanent International Criminal Court was adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court in Rome on 17 July 1998. The Court is to have jurisdiction over serious crimes of international concern, including genocide, war crimes and crimes against humanity. The Statute will enter into force after the deposit of the sixtieth instrument of ratification, acceptance, approval or accession. At the time of writing, 90 States had signed and 5 ratified the Statute.

VI. CONCLUDING REMARKS AND RECOMMENDATIONS

A. Concluding remarks

93. The information brought to the Special Rapporteur's attention during the period under review, and which is reflected in the sections above, compels her to conclude that there is no indication that extrajudicial, summary or arbitrary executions have decreased. Certain specific groups such as human rights defenders, political activists and members of various minorities continue to be particularly exposed to these horrendous crimes, but there are more and more reports of large-scale indiscriminate and arbitrary killings of women, children or elderly persons by Government-controlled security forces, paramilitary groups or non-State actors. Armed conflicts and situations of internal strife or unrest also continue to claim their toll of civilian victims. The Special Rapporteur further feels a personal commitment and responsibility to address the unacceptable practice of so-called "honour killings", which she concludes may constitute violations of the right to life when condoned or ignored by the authorities.

94. The Special Rapporteur hopes that the present report will serve to illustrate the scope and seriousness of the problem of extrajudicial, summary or arbitrary executions worldwide and inspire States to take joint and separate action to combat these atrocities, which continue to bring anguish and tragedy to innocent victims and their families. Declarations of commitment to the protection of human rights are only effective, and indeed meaningful, if they are translated into

concrete decisions and policies at the national level. In this regard, the Special Rapporteur notes with regret that most of her recommendations from last year remain valid, in the absence of concrete and credible action to implement them on the part of Governments. She has therefore felt obliged to reiterate many of these points in this year's report. The Special Rapporteur further notes with regret that in the present reporting period, a number of Governments have ignored her urgent appeals in individual cases and failed to respond to requests for information regarding alleged violations of the right to life.

95. The Special Rapporteur would like to take this opportunity to express her appreciation for the additional staff assigned to service her mandate at the Office of the High Commissioner for Human Rights. She is also encouraged by the ongoing work at the Office to establish a database system in support of the thematic mechanisms of the Commission on Human Rights. She is concerned, however, that the precarious funding situation of the United Nations human rights programmes may jeopardize the stable and uninterrupted support for her mandate.

B. Recommendations

1. Capital punishment

96. It is strongly recommended to States that have not ratified the International Covenant on Civil and Political Rights to do so. Domestic legislation pertaining to the use of the death penalty should be brought into line with international standards. States that still enforce capital punishment should observe all fair trial standards and restrictions on the use of the death penalty contained in the relevant international instruments, particularly the International Covenant on Civil and Political Rights.

97. States which still enforce the death penalty should take immediate and effective measures to restrict its use, with a view to completely abolishing capital punishment both in law and in practice. In these efforts, Governments should establish an immediate moratorium on the execution of death sentences, in accordance with Commission on Human Rights resolution 1999/61. Pending the imposition of such a moratorium, Governments which continue to enforce death penalties are urged to take immediate steps to bring their domestic legislation and legal practice into line with international standards prohibiting the imposition of death sentences in regard to minors and mentally ill or handicapped persons. The Special Rapporteur notes that the Convention on the Rights of the Child clearly stipulates that capital punishment shall not be imposed for offences committed by persons under the age of 18. She welcomes the growing international consensus that the death penalty should not apply to juvenile offenders, and encourages States to support the ongoing efforts to that end.

98. The Special Rapporteur further calls upon Governments to review their existing legislation and legal practice with the aim of limiting the use of the death penalty to exclude crimes that cannot be considered "most serious", as provided in article 6 of the International Covenant on Civil and Political Rights. Death sentences should under no circumstances be mandatory.

2. Death threats

99. The Special Rapporteur urges Governments to recognize their obligation to ensure the protection of the human rights of all persons under their jurisdiction, including the duty to investigate all instances of death threats or attempts against lives, which are brought to their attention, regardless of the race, ethnicity, religious belief, political persuasion or other distinction of the victim. Governments must also take effective preventive measures to protect the security and integrity of those who are particularly exposed or vulnerable to extrajudicial, summary or arbitrary execution. At the same time, Governments should vigorously and consistently publicly denounce death threats, and establish and support policies and programmes condemning the use violence and promoting a climate of tolerance.

3. Deaths in custody

100. All Governments are urged to review legislation and practices concerning arrest and conditions of detention in order to bring them into line with the Standard Minimum Rules for the Treatment of Prisoners and other relevant international instruments. Governments should also take immediate steps to ensure that international norms and principles prohibiting any form of cruel, inhuman or degrading treatment are strictly observed in all places of detention. So-called informal places of detention not under direct government control should be prohibited and immediately closed.

101. Most cases of custodial death occur in the period between a person's arrest and his or her arraignment. Governments should take steps to minimize the time of pre-trial detention prescribed by law, and ensure that international standards pertaining to the treatment of persons in pre-trial detention are strictly observed by the relevant authorities. Law enforcement officials and prison guards should receive human rights training, particularly with regard to the aforementioned norms. All cases of custodial death should be promptly and thoroughly investigated by a body which is independent from the police or prison authorities. Governments should guarantee the right to persons in detention to receive visits by their lawyers and family, and to have access to adequate medical care. When applicable, Governments should also continue to strengthen their cooperation with the International Committee of the Red Cross, and allow free and unimpeded access of its delegates to places of detention. In this connection, the Special Rapporteur reiterates her request to the Commission on Human Rights to call for the rapid adoption of an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with a view to establishing a system of periodic visits to places of detention. The Special Rapporteur recommends that national human rights commissions and ombudsman institutions pay particular attention to the problem of custodial deaths, and encourages them to share their findings with her.

4. Excessive use of force by law enforcement officials

102. Governments should ensure that their police and security personnel receive thorough human rights training, particularly in regard to restrictions on the use of force and firearms in the discharge of their duties. This training should include the teaching of methods of crowd control without resorting to lethal force. All cases of excessive use of force by State agents should be thoroughly investigated and persons responsible for such abuses brought to justice.

5. Violations of the right to life during armed conflict

103. The Special Rapporteur strongly recommends that States that have not yet ratified the four Geneva Conventions do so as a matter of urgency. Governments are to ensure that members of their military and security forces receive adequate training in human rights and humanitarian law standards applicable to situations of armed conflict and internal unrest or strife. Commanding officers are under an obligation to ensure that strict discipline is maintained in their units and that operations are carried out in strict observance of the aforementioned standards. All violations of human rights or humanitarian law should be promptly and consistently investigated and punished.

104. Governments of countries engaged in action against armed opposition groups are urged to deploy every effort to ensure that counter-insurgency operations are conducted in strict compliance with international human rights and humanitarian law standards. Civilians should under no circumstances be identified with or targeted as a party to the conflict, regardless of their religion, ethnicity or political sympathies. Governments are reminded that there can be no derogation from the right to life, contained in article 6 of the International Covenant on Civil and Political Rights, not even in times of war and internal unrest.

105. Non-State actors engaged in armed activities should undertake to respect basic humanitarian principles, particularly those contained in common article 3 of the Geneva Conventions. Members of such forces should be held legally responsible for their acts. Governments that control armed groups operating outside their own borders should take full responsibility for human rights violations, including extrajudicial, summary or arbitrary executions committed by these forces.

6. Imminent expulsion of persons to countries where their lives are in danger

106. Governments that have not yet ratified the Convention and Protocol relating to the Status of Refugees are strongly encouraged to do so. Governments should at all times refrain from expelling persons in circumstances where respect for their right to life is not fully guaranteed. Refoulement of refugees or internally displaced persons to countries or areas where respect for their right to life is not fully guaranteed, as well as closure of borders preventing the escape of persons trying to flee a country, should at all times be prohibited. When necessary, the international community should stand ready to assist countries facing a massive influx of refugees whose lives may be in danger, to enable the host country to receive these persons in safety and dignity.

7. Genocide

107. Governments are strongly encouraged to ratify the Convention on the Prevention and Punishment of the Crime of Genocide. The Special Rapporteur calls on States parties to the Convention to pay due attention to its provisions relating to the prevention of genocide. Concerned States, assisted by the international community, should deploy every effort to prevent acts of communal violence or inter-ethnic tensions from degenerating into large-scale killings that may ultimately reach the dimensions of genocide. States in which acts of communal violence occur and inter-ethnic tensions persist should do their utmost to curb such conflicts and

defuse tensions at an early stage. Governments should also work towards reconciliation and peaceful coexistence of all segments or groups of the population, regardless of ethnicity, religion, language or any other distinction. If and when required, the international community should be ready to assist these countries in preventing and defusing such conflicts. Governments should at all times prevent, prosecute and punish propaganda or incitement to hatred and intolerance that might instigate acts of communal violence. Governments are encouraged to request and avail themselves of international assistance to prevent conflicts and tensions from escalating into widespread and large-scale violence.

108. The Special Rapporteur encourages the States parties to the Convention on the Prevention and Punishment of the Crime of Genocide to explore ways of establishing a monitoring mechanism to supervise the implementation of the Convention. She calls on all concerned States to cooperate fully with the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, particularly by arresting and handing over suspects with a view to prosecuting those accused of the crime of genocide. The Special Rapporteur further notes that the International Criminal Court, once it is established, will have jurisdiction over the crime of genocide.

8. Acts of omission

109. Governments are obliged to prevent acts of violence, including extrajudicial, summary or arbitrary executions, and to promptly prosecute persons responsible for such abuses. Governments must under no circumstances allow impunity for human rights violations, and should bring to justice persons committing murder in the context of mob violence or under the pretext of so-called popular justice. Governments should under no circumstances harbour or support groups or persons engaged in acts of terrorism. State officials who fail to take action to prevent violations of the right to life should be prosecuted and punished, regardless of their rank or position. Governments should publicly denounce acts of violence and serious human rights violations. At the same time, they should refrain from making statements justifying or supporting such acts on the grounds of cultural or religious sensitivities.

9. Impunity

110. States are under an obligation to conduct exhaustive and impartial investigations into allegations of violations of the right to life, in all its manifestations, and to identify and prosecute those responsible. In addition to combating impunity by addressing past or ongoing abuses, States should take positive measures aimed at preventing the recurrence of such violations.

111. The Special Rapporteur believes that the following measures, if introduced, could contribute to curbing impunity for human rights offenders: (a) Governments that have not done so should establish strict procedures, such as habeas corpus, aimed at ensuring the integrity of persons under any form of detention; (b) State authorities should ensure that strict discipline and a clear chain of command is maintained within the police and armed forces. All paramilitary or security forces not directly and strictly under government control should be immediately disbanded; (c) Governments should consider the establishment of independent human rights redress mechanisms, such as the ombudsman institution, with the authority to take action on behalf of victims of human rights abuses. Such mechanisms would also serve to increase the

transparency of State institutions and the accountability of public officials; (d) Governments should take effective action to strengthen the integrity, status and resources of the judiciary; (e) in accordance with principle 19 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, blanket amnesty laws prohibiting the prosecution of alleged perpetrators and violating the rights of victims should not be adopted; (f) no person, regardless of his or her present or past status, function and position, should be immune from prosecution for gross human rights violations, including extrajudicial, summary or arbitrary executions. The Special Rapporteur further believes that a free and independent press can contribute to curbing impunity by giving publicity to human rights abuses and scrutinizing the work of State authorities.

112. The Special Rapporteur is deeply disturbed by increasing reports of widespread and systematic killings carried out by government security forces or armed elements supported by the State. The practice of using paramilitary groups or militias as instruments of government repression is a cause for gravest concern. She strongly urges Governments to introduce strict measures to control the activities of forces under its direct control and to immediately end support for any paramilitary or private groups. Government officials and commanding officers should be held accountable for any action or omission allowing such forces to continue with their activities.

113. The Special Rapporteur wishes to emphasize that the primary responsibility to prosecute persons responsible for human rights abuses rests with the national authorities. However, in the event that the national justice system is unwilling or unable to carry out these functions, the international community must ensure that widespread and systematic human rights violations are dealt with under a wider, universal jurisdiction. The Special Rapporteur welcomes the adoption of the Statute of the International Criminal Court and believes that the Court will provide an important complement to national legal systems that are unable or unwilling to combat impunity by exercising their own jurisdiction. In this context, the Special Rapporteur calls on States to expedite the establishment of the International Criminal Court by securing the necessary ratifications of the Statute without undue delay.

10. Children in armed conflict

114. The Special Rapporteur is deeply disturbed by the continuing practice of engaging children under the age of 18 in armed conflict. She strongly supports the adoption of an optional protocol to the Convention on the Rights of the Child aimed at prohibiting the compulsory or voluntary recruitment of children under 18 years of age into the armed forces and armed groups and their participation in armed conflict. She urges States to take immediate unilateral action to raise the age of enlistment to 18 years.

11. Traditional practices and customs affecting the right to life - "honour killings"

115. The main reason for the perpetuation of the practice of "honour killings" is the lack of political will by Governments to bring the perpetrators of these crimes to justice. Governments are urged to make legislative changes to ensure that such killings receive no favourable discriminatory treatment under the law; those threatening the lives of potential victims should be

brought to justice. Correctional and custodial homes run by Governments should not be permitted to forcibly detain women whose lives are at risk. Prisons should never be used to detain potential victims of honour killings.

12. The right to life and sexual orientation

116. The Special Rapporteur encourages Governments to renew their efforts to protect the security and the right to life of persons belonging to sexual minorities. Acts of murder and death threats should be promptly and thoroughly investigated regardless of the sexual orientation of the victims. Measures should include policies and programmes geared towards overcoming hatred and prejudice against homosexuals and sensitizing public officials and the general public to crimes and acts of violence directed against members of sexual minorities. The Special Rapporteur believes that decriminalizing matters of sexual orientation would greatly contribute to overcoming the social stigmatization of members of sexual minorities, and thereby curb impunity for human rights violations directed against these persons. Matters of sexual orientation should under no circumstances be punishable by death.